

DOCKETED	
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Project Title:	Perkins Renewable Energy Project
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April 2, 2024

Via Email

Matt Tennyson
IP Perkins, LLC
IP Perkins BAAH, LLC
c/o Intersect Power, LLC
9450 SW Gemini Drive, PMB #68743
Beaverton, Oregon 97008-7105
MTennyson@chronicleheritage.com

**Application for Confidential Designation: Perkins Renewable Energy Project
Docket No. 24-OPT-01**

Dear Matt Tennyson:

The California Energy Commission (CEC) has received eight Applications for Confidentiality from Intersect Power, LLC (applicant), docketed February 20, 2024, (TNS 254582, 254584, 254594, 254606, 254608, 254630, 254631, 254636) covering the following records:

- Confidential Cultural RS Reports Part 1 – 68
- Confidential Cultural Resource Department of Parks and Recreation Forms Part 1 - 4

A properly filed application for confidentiality shall be granted under California Code of Regulations, title 20, section 2505(a)(3)(A), "if the applicant makes a reasonable claim that the Public Records Act or other provision of law authorizes the Commission to keep the record confidential."

Discussion

The applications contain identical information regarding why the associated records should be kept confidential. The applicant states the documents should be granted confidentiality under California Government Code sections 7927.000, 7927.305 and 7927.705 and that the records are provided by U.S. Bureau of Land Management (BLM) and should be kept confidential at the request of BLM. The applicant also states the records specifically identify areas of potential cultural and historical significance. The applicant requests that the records be confidential in their entirety and be confidential for an indefinite period of time to protect potential cultural resources and sites. The applicant states that the public interest in nondisclosure is outweighed by the interest in disclosure as disclosing the documents could lead to looting and destruction of cultural resources and sites.

The California Public Records Act provides for the nondisclosure of archaeological site information and records of Native American places, features, and objects and reports maintained by, or in the possession of, the Department of Parks and Recreation, the State Historical Resources Commission, the State Lands Commission, the Native American Heritage Commission, another state agency, or a local agency. (Gov. Code, §§ 7927.000, 7927.005.)

The Archaeological Resources Protection Act establishes a clear, national legal policy that all types of archaeological, paleontological, and cultural resource site locations on public lands must be protected to preserve them. (54 U.S.C. § 306131.)

The California Government Code section 7922.000 provides that an agency may withhold information from disclosure where the public interest served by nondisclosure clearly outweighs the public interest of disclosure.

Executive Director's Determination

Protection of cultural and archeological resource location information to prevent looting and unauthorized collection is in the public interest and expressly covered under the law. The applicant has made a reasonable claim that the documents identified above, containing information on cultural and archeological resources, records, reports, and maps can be maintained as confidential indefinitely. As such, the applicant's request for confidential designation of the documents listed above is granted.

Be advised that persons may petition to inspect or copy records that have been designated as confidential, the executive director may disclose, or release records previously designated as confidential in certain circumstances, and the CEC may hold a hearing to determine the confidentiality of its records on its own motion or on a motion by CEC staff. The procedures and criteria for disclosing or releasing, filing, reviewing, and acting upon such petitions or motions are set forth in the California Code of Regulations, title 20, sections 2506 through 2508.

Any related subsequent submittals can be deemed confidential, without the need for an application, by following the procedures set forth in California Code of Regulations, title 20, section 2505(a)(4).

If you have questions, please email confidentialityapplication@energy.ca.gov.

Sincerely,



Drew Bohan
Executive Director